

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6722

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

WILLIAM CHARLES DOUGAL-MEDINA,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. W. Earl Britt, Senior District Judge. (CR-97-173-BR; CA-99-124-5-BR)

Submitted: September 29, 2005

Decided: October 7, 2005

Before WILKINSON, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

William Charles Dougal-Medina, Appellant Pro Se. David J. Cortes, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

William Charles Dougal-Medina seeks to appeal the district court's order denying his motion under Rule 36 of the Federal Rules of Criminal Procedure to correct his sentence. Although we grant leave to proceed *informa pauperis*, we dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

In a criminal case, a notice of appeal may be filed within ten days after the entry of the final order. Fed. R. App. P. 4(b)(1). That appeal period may be extended for a maximum of thirty days upon a showing of good cause or excusable neglect. Fed. R. App. P. 4(b)(4). The appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)). The district court's order was entered on the docket on May 13, 2003. Giving Dougal-Medina the benefit of Fed. R. App. P. 4(c), the notice of appeal is deemed filed on April 16, 2005. Because Dougal-Medina failed to file a timely notice of appeal or to obtain an extension of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED